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New York

SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. ZARIF (Islamic Republic of Iran)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 151: REQUEST FOR AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE (A/47/249 and Add.1, A/C.6/47/8 and A/C.6/47/L.18)

1. Mr. YAÑEZ-BARNUEVO (Spain), speaking on behalf of the 21 delegations that had proposed it (A/47/249 and Add.1), presented the item entitled "Request for an advisory opinion from the International Court of Justice", thus fulfilling an explicit mandate from the second Ibero-American Summit of Heads of State and Government, held in Madrid in July 1992.

2. Owing to the changes that had taken place in the last few years, the international community was becoming a more and more open society wherein persons and States were increasingly interrelated beyond national frontiers. Such interrelationship did have some supremely positive effects, but it also led to an increase in certain patterns of crime that could affect different States. During the current United Nations Decade of International Law, there was a particular need to achieve reliable cooperation among States in order to combat such crimes effectively using international resources. In an international community made up of independent, free, sovereign and equal States, such cooperation must be based on full respect for international law, and in particular for the principles of sovereign equality, territorial integrity and fulfilment of international obligations in good faith.

3. Above all, no State should apply unilateral measures to the detriment of other States. No country, large or small, could take the law into its own hands because, in so doing it not only contravened fundamental principles of law but also made it less likely that other States would be in good faith willing to cooperate in fighting crime that had international ramifications.

4. Neither could any State, on the grounds of provisions of its internal law or decisions of its judicial organs, disregard its obligations under international law, which prohibited any State, barring express authorization to do so, from exercising coercive power in the territory of another State. Respect for territorial sovereignty was a fundamental principle of international relations. As Benito Juárez once said, "respect for foreign law is peace". The delegations that had called for the inclusion of the item in the agenda of the current session only wished to serve the cause of peace by encouraging respect for international law.

5. The point at issue was whether international law was violated by a State that directly or indirectly captured a suspect in the territory of another State without the latter State's consent and brought him under its criminal jurisdiction to trial. There was also a need to define and specify international law standards applicable in such a case, their scope and the specific juridical consequences of violating them for the States involved.

6. Clarification of those important questions would avoid any erosion of mutual trust between States and would make it possible to establish effective

(Mr. Yañez-Barnuevo, Spain)

judicial cooperation against international crime while respecting international law.

7. Since the juridical questions involved were of enormous importance for the whole international community, the Ibero-American Summit of Heads of State and Government had decided to ask the General Assembly, at its current session, to request an advisory opinion from the International Court of Justice, hence the request in documents A/47/249 and Add.1. The sponsoring delegations had attempted to set forth the legal problem in a general way and, as a matter of principle, apart from any particular situation.

8. He was sure that the other members of the Sixth Committee had the same concern with the problem and would arrive at the same conclusion on how to solve it. However, since many delegations would wish to have some time to reflect on the matter and to consult with their respective Governments, the delegations sponsoring the item did not insist on its further consideration at the current stage of the Committee's work but were content to proceed with it as soon as possible in subsequent discussions. Such were their reasons for sponsoring draft decision A/C.6/47/L.18.

9. Draft decision A/C.6/47/L.18 was adopted without a vote.

10. The CHAIRMAN said that the Committee had thus concluded its consideration of agenda item 151.

AGENDA ITEM 128: UNITED NATIONS DECADE OF INTERNATIONAL LAW

11. The CHAIRMAN recalled that at the previous meeting (A/C.6/47/SR.37) no announcement had been made that consideration of agenda item 128 was concluded. He therefore stated that the Committee had concluded its consideration of the item.

COMPLETION OF THE COMMITTEE'S WORK

12. After an exchange of courtesies, in which Mr. BELLOUKI (Morocco), Mr. AL-SUWAIDI (United Arab Emirates), Mr. CASTILLO (Venezuela), Mr. POSTILA (Romania), and Mr. DASTIS (Spain) spoke on behalf of, respectively, the Groups of African, Asian, Latin American, Eastern European, and Western European and other States, the CHAIRMAN declared that the Sixth Committee had completed its work for the forty-seventh session.

The meeting rose at 11 a.m.